

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ANTHONY FRACCICA,

Plaintiff,

v.

20-CV-858-LJV-LGF  
DECISION & ORDER

HSBC N.A. USA,

Defendant.

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On July 9, 2020, the plaintiff, Anthony Fraccica, commenced this action under the Family Medical Leave Act of 1993, 29 U.S.C. § 2601 *et seq.* Docket Item 1. This Court then referred the case to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 6.

On December 2, 2022, the defendant, HSBC Bank USA, N.A. (“HSBC”), moved for summary judgment. Docket Item 44. After Fraccica did not respond, see Docket Item 51 at 2-3, HSBC submitted a reply declaration, Docket Item 50.<sup>1</sup> On October 24, 2023, Judge Foschio issued a Report and Recommendation (“R&R”) finding that HSBC’s motion should be granted. Docket Item 51. The parties did not object to the

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<sup>1</sup> On December 23, 2022, Fraccica’s attorney was suspended from the practice of law in New York. See Docket Item 47; Docket Item 51 at 2. HSBC therefore mailed a copy of the motion for summary judgment to Fraccica and informed him that it would communicate directly with him unless and until he retained new counsel. Docket Item 47; see Docket Item 51 at 2-3. In March 2023, Fraccica told HSBC that he had not retained a new attorney. See Docket Item 48; Docket Item 51 at 3. Judge Foschio then set a new briefing schedule for the motion for summary judgment. Docket Item 49; see Docket Item 51 at 3. But Fraccica never responded to the motion. See Docket Item 51 at 3.

R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Foschio's R&R as well as the submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Foschio's recommendation to grant HSBC's motion.

For the reasons stated above and in the R&R, HSBC's motion for summary judgment, Docket Item 44, is GRANTED; the complaint, Docket Item 1, is dismissed; and the Clerk of the Court shall close this case.

SO ORDERED.

Dated: November 16, 2023  
Buffalo, New York

/s/ Lawrence J. Vilardo  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE